

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**JULIE FRANK WILBECK, Individually,
AND JULIE FRANK WILBECK AS
GUARDIAN OF EDWARD FRANK
PARKER , AND EDWARD FRANK
PARKER,**

Plaintiffs,

V.

O'REILLY AUTO ENTERPRISES, LLC,
Defendant.

S

CASE NO. 1:21-cv-333

INDEX OF MATTERS BEING FILED AND LIST OF ALL COUNSEL OF RECORD

Defendant O'Reilly Auto Enterprises, LLC (“Defendant”) submits this Index of Matters Being Filed and List of All Counsel of Record. The following items are being filed with the filed by Defendant:

1. Index of Matters Being Filed and List of All Counsel of Record;
2. Copies of all executed process, pleadings asserting causes of action and all orders signed by the state judge as follows:
 - A. Plaintiffs' Original Petition, filed March 15, 2020 (attached as Exhibit 1-A);
 - B. Service to Defendant on March 17, 2021 (attached as Exhibit 1-B);
 - C. Defendant O'Reilly Auto Enterprises, LLC, Original Answer, filed on April 12, 2021 (attached as Exhibit 1-C);
3. A copy of the state court docket sheet (attached as Exhibit 1-D).

The parties' respective attorneys are as follows:

A. Attorneys for Plaintiffs:

Scott C. Wilbeck
State Bar No. 24075278
1441 FM 963
Burnet, Texas 78611
T: 512-771-0616
Email: swilbeck@shellattorneys.com
Attorney for Plaintiffs

B. Attorneys for Defendant:

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Sarah A. Nicolas
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snicolas@ramonworthington.com
Electronic Service to: efile@ramonworthington.com
Attorney in Charge for Defendant

Of Counsel:

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(956) 294-4800
(956) 928-9564 – Fax
Electronic Service to: efile@ramonworthington.com

Dated: April 15, 2021

EXHIBIT 1-A

Filed: 3/15/2021 12:00 AM
 Casie Walker, District Clerk
 Burnet County, Texas
 By: Amy Tippie, Deputy

NO. 52019

**JULIE FRANK WILBECK,
 INDIVIDUALLY AND JULIE FRANK
 WILBECK, AS GUARDIAN OF
 EDWARD FRANK PARKER, AND
 EDWARD FRANK PARKER
 Plaintiffs,**

§ IN THE DISTRICT COURT

Burnet County - 33rd District Court

V.

§
 §
 § ~~33RD/424TH JUDICIAL DISTRICT~~
 §
 §
 § OF BURNET COUNTY, TEXAS

**O'REILLY AUTO ENTERPRISES, LLC
 Defendant.**

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Julie Frank Wilbeck, Individually and Julie Frank Wilbeck, as Guardian of Edward Frank Parker, and Edward Frank Parker, hereinafter called Plaintiffs, complaining of and about O'Reilly Auto Enterprises, LLC, hereinafter called Defendant, and for cause of action would show unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiffs intend that discovery be conducted under Discovery Level 2.

PARTIES AND SERVICE

2. Plaintiff, Julie Frank Wilbeck, is an Individual whose address is 1441 FM 963, Burnet, Texas 78611.

3. The last three numbers of Julie Frank Wilbeck's driver's license number are 962. The last three numbers of Julie Frank Wilbeck's social security number are 127.

4. Plaintiff, Julie Frank Wilbeck, an Individual, brings this action as guardian of Edward Frank Parker, an Individual.

5. Plaintiff, Edward Frank Parker, is an Individual whose address is 1441 FM 963,
Original Petition *Page 1 of 10*
Wilbeck/Parker vs. O'Reilly Auto Enterprises, LLC

Burnet, Texas 78611

6. The last three numbers of Edward Frank Parker's driver's license number are 289.

The last three numbers of Edward Frank Parker's social security number are 616.

7. As used herein, "Plaintiff" shall include not only named Plaintiffs, but also persons whose claims are being represented by a Plaintiff or persons from whose injuries the Plaintiffs' claims are derived.

8. Defendant O'Reilly Auto Enterprises, LLC, a Limited Liability Company registered and conducting business in Texas, may be served with process by serving the registered agent of said company, C T Corporation System, at 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136, its registered office. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

JURISDICTION AND VENUE

9. The subject matter in controversy is within the jurisdictional limits of this court.

10. Plaintiffs seek:

a. monetary relief over \$250,000 but not more than \$1,000,000.

11. This court has jurisdiction over the parties because Defendant is a corporation registered in Texas and conducting business in Burnet County, Texas.

12. Venue in Burnet County is proper in this cause under Section 15.002(a)(1) of the Texas Civil Practice and Remedies Code because all or a substantial part of the events or omissions giving rise to this lawsuit occurred in this county.

FACTS

13. At all times material hereto, Defendant O'Reilly Auto Enterprises, LLC was the possessor in control of the premises located at 508 S. Water Street, Burnet, Texas 78611 and the

employer and manager for employees working at the premises.

14. On or about March 15, 2019, Edward Frank Parker (Eddie) was an Invitee on property controlled by the Defendant (O'Reilly's), and was injured under the following circumstances:

15. On the evening of March 15, 2019, Eddie entered the O'Reilly Auto Parts store at 508 S. Water Street, Burnet Texas. Eddie was accompanied by two friends.

16. When the three entered the store, the assistant manager, was sweeping in front of the first counter, and another employee was standing behind the first register. Eddie and the second employee were friends and the pair had a disagreement earlier in the week. The store manager was aware of this disagreement and that there could be a potential conflict between her employee and Eddie.

17. After the three entered the store, Eddie was confronted by the O'Reilly's employee. Shortly before the confrontation, Eddie grabbed the top of the broom the assistant manager had been using. It was a simple household broom with a hollow metal handle, and the top plastic cap had been removed from the broom. Eddie was holding the broom and had inserted his right middle finger into the top of the broom where the cap should have been.

18. At that point, the O'Reilly's employee pushed Eddie to the ground while Eddie's middle finger was stuck in the broom handle. The assistant manager did nothing to prevent the attack or stop the attack after it started. Eddie struck his head on the floor when he was pushed to the ground. However, the main injury was to Eddie's middle finger on his right hand. The metal edge on the handle of the broom severely lacerated Eddie's finger. Had it not been for the altered broom, Eddie would probably just have a bump on his head.

19. Eddie's two friends took him to the emergency room at the Seton Hospital in

Burnet just down the road from the O'Reilly's store. The ER doctor observed that the tendons and nerves in Eddie's right middle finger were lacerated. The doctor cleaned the wound, closed it with sutures, and advised Eddie to follow up with a hand surgeon the following Monday.

20. Eddie had his first surgery the next week on March 20, 2019. The surgeon successfully re-attached some of the tendons and gave Eddie some movement in his finger. Eddie attended physical therapy over the next several months in an attempt to achieve a greater range of mobility in his middle finger. He could no longer fully extend his finger, completely bend his finger, and had lost nerve sensation.

21. Eddie underwent a second surgery on his finger November 20, 2019. The surgeon was able to remove some scar tissue and somewhat improve Eddie's ability to bring his finger to his palm in a closed fist.

22. Today, Eddie cannot fully extend his middle finger. He cannot fully flex his finger and is not able to make a closed fist. Plus, he has lost much sensitivity in his finger due to nerve damage. His finger will never be like it was before the incident and he will never regain full motion, feeling, or normal use of his right finger or hand. Eddie is right-handed. He was also 16 at the time of the incident, and this injury will affect his earning ability and his career options for the remainder of his life.

23. Eddie has also been diagnosed with depression and post traumatic stress disorder and has nightmares of the incident and the surgeries.

LIABILITY OF DEFENDANT O'REILLY AUTO ENTERPRISES, LLC

24. On or about March 15, 2019 and at all times mentioned herein, Defendant O'Reilly Auto Enterprises, LLC was the possessor of the property in question and either owned, occupied or maintained the premises located at 508 S. Water Street, Burnet, Texas 78611 as a

retail location for O'Reilly Auto Parts #636.

25. At all times mentioned herein, Defendant O'Reilly Auto Enterprises, LLC had such control over the premises and employees in question that Defendant O'Reilly Auto Enterprises, LLC owed certain duties to Plaintiffs, the breach of which proximately caused the injuries set forth herein.

26. On or about March 15, 2019, Edward Frank Parker was an Invitee on the premises owned by the Defendant when Edward Frank Parker was injured as a result of the acts and omissions of the Defendant.

**LIABILITY OF DEFENDANT O'REILLY AUTO ENTERPRISES, LLC
FOR NEGLIGENT CONDUCT OF ACTIVITY ON THE PREMISES**

27. On the date that Edward Frank Parker was injured, Defendant was conducting or permitting an employee to confront and later assault a customer in the presence of a manager who should have prevented, stopped, or tried to stop the incident. In addition, Defendant allowed a customer to access a modified, defective piece of equipment (the broom) and negligently left the equipment within easy access of any customer in the store that evening.

28. Defendant failed to conduct such activity in a safe and reasonable manner, a manner which created or perpetuated a danger to Edward Frank Parker and others, in that Defendant failed to address a situation before and during escalation and allowed Edward Frank Parker to handle defective store equipment, namely a broom with a metal handle and the top safety cap removed.

29. Edward Frank Parker was injured by or as a result of the negligent conduct of that activity when he was assaulted by an O'Reilly's employee while that employee's manager stood idle and did nothing to intervene or stop the assault and because O'Reilly's employees allowed a customer easy access to defective store equipment.

30. The negligent, careless or reckless acts and omissions of Defendant O'Reilly Auto Enterprises, LLC consisted of one or more of the following:

- A. Defendant failed to discover and remove the broom with the metal handle and missing top cap within a reasonable time; and
- B. Defendant allowed customers access to the defective broom; and
- B. Defendant failed to provide necessary and proper training of employees; and
- C. Defendant was aware of a potential conflict between its employee and Plaintiff yet failed to act before and during the assault and failed to mitigate damages.

**LIABILITY OF DEFENDANT O'REILLY AUTO ENTERPRISES, LLC
FOR PREMISES DEFECT**

31. That on the date Edward Frank Parker was injured, a dangerous condition existed on the Defendant's premises which was a proximate cause of the injuries, specifically the broom with the protective end cap removed and left within easy access of customers.

32. That the Defendant had actual or constructive knowledge of the conditions just described on Defendant's premises as demonstrated by a conversation with the store manager the following morning.

33. That the condition just described posed an unreasonable risk of harm to Edward Frank Parker and others in that there was such a probability of a harmful event occurring that a reasonably prudent person would have foreseen that the event that did occur or some similar event was likely to happen.

34. That the Defendant did not exercise reasonable care to reduce or eliminate the risk.

35. The negligent, careless or reckless acts and omissions of Defendant O'Reilly Auto Enterprises, LLC consisted of one or more of the following:

- A. Defendant failed to discover and remove the broom with the metal handle and missing top cap within a reasonable time; and
- B. Defendant failed to reattach the cap at the top of the broom to return it to its original condition; and
- C. Defendant allowed the defective broom to be accessed by customers entering the store that evening.

**LIABILITY OF DEFENDANT O'REILLY AUTO ENTERPRISES, LLC
FOR INJURIES ARISING FROM FORESEEABLE CRIMINAL CONDUCT**

36. Edward Frank Parker's injuries were caused by criminal conduct committed by an adult employee of O'Reilly Auto Enterprises, LLC.

37. The O'Reilly's store manager was aware of the disagreement between the employee and Edward Frank Parker and should have known there could be a confrontation.

38. The O'Reilly's employee confronted and later assaulted Edward Frank Parker in the presence of the assistant store manager who did nothing to stop or mitigate the incident:

39. Prior to Edward Frank Parker being injured there was such a probability of a harmful event occurring that a reasonably prudent person would have foreseen that the conduct just described or some similar event was likely to happen, and would have taken reasonable steps to prevent the occurrence of such an event.

40. The negligent, careless or reckless acts and omissions of Defendant O'Reilly Auto Enterprises, LLC consisted of one or more of the following:

- A. Defendant failed to provide necessary and proper procedures to prevent a foreseeable confrontation; and
- B. Defendant failed to intervene to de-escalate the confrontation;
- C. Defendant failed to properly train employees to address such a foreseeable situation.

PROXIMATE CAUSE

41. Each and every, all and singular of the foregoing acts and omissions, on the part of Defendant, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages set forth below.

EXEMPLARY DAMAGES

42. Defendant O'Reilly Auto Enterprises, LLC's acts or omissions described above, when viewed from the standpoint of Defendant O'Reilly Auto Enterprises, LLC at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiffs and others. Defendant O'Reilly Auto Enterprises, LLC had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiffs and others.

43. Based on the facts stated herein, Plaintiffs request exemplary damages be awarded to Plaintiffs from Defendant O'Reilly Auto Enterprises, LLC.

DAMAGES FOR PLAINTIFF, JULIE FRANK WILBECK

44. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, Plaintiff, Julie Frank Wilbeck was caused to suffer medical bills that were not covered by her insurance and had to pay all medical bills out of her own pocket.

45. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Julie Frank Wilbeck has incurred the following damages:

- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Julie Frank Wilbeck for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for

such services in Burnet County, Texas.

46. By reason of the above, Plaintiff, Julie Frank Wilbeck has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which this lawsuit is brought.

DAMAGES FOR INJURED PARTY, EDWARD FRANK PARKER

47. As a direct and proximate result of the occurrence made the basis of this lawsuit, and Defendant's acts as described herein, the subject of this lawsuit, Edward Frank Parker was caused to suffer an injured middle finger, and to endure anxiety, pain, mental and physical illness resulting in damages more fully set forth below.

48. As a direct and proximate result of the occurrence made the basis of this lawsuit, the subject of this lawsuit, Edward Frank Parker has incurred the following damages:

- A. Reasonable and necessary medical care and expenses which will, in all reasonable probability, be incurred in the future;
- B. Physical pain and suffering in the past;
- C. Mental anguish in the past;
- D. Mental anguish in the future;
- E. Physical impairment in the past;
- F. Physical impairment which, in all reasonable probability, will be suffered in the future;
- G. Loss of earnings in the past;
- H. Loss of earning capacity which will, in all probability, be incurred in the future; and
- I. Disfigurement in the future.

49. By reason of the above, the subject of this lawsuit, Edward Frank Parker has suffered losses and damages in a sum within the jurisdictional limits of the Court and for which

this lawsuit is brought.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs, Julie Frank Wilbeck, Individually and Julie Frank Wilbeck, as Guardian of Edward Frank Parker, and Edward Frank Parker respectfully pray that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendant for damages in an amount within the jurisdictional limits of the Court; exemplary damages, excluding interest, and as allowed by Sec. 41.008, Chapter 41, Texas Civil Practice and Remedies Code; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

By: 

Scott C. Wilbeck
Texas Bar No. 24075278
Email: swilbeck@shellattorneys.com
1441 FM 963
Burnet, TX 78611
Tel. (512) 771-0616
Attorney for Plaintiffs
Julie Frank Wilbeck, Individually and Julie
Frank Wilbeck, as Guardian of Edward Frank
Parker, and Edward Frank Parker

PLAINTIFFS HEREBY DEMAND TRIAL BY JURY

EXHIBIT 1-B

CAUSE NO. 52019

JULIE FRANK WILBECK, INDIVIDUALLY § IN THE DISTRICT COURT OF
AND JULIE FRANK WILBECK, AS GUARDIAN § BURNET COUNTY, TEXAS
OF EDWARD FRANK PARKER, AND EDWARD § 33RD DISTRICT COURT
FRANK PARKER
V.
O'REILLY AUTO ENTERPRISES, LLC

THE STATE OF TEXAS:

CITATION BY CERTIFIED MAIL

TO:
O'REILLY AUTO ENTERPRISES, LLC
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN ST STE 900
DALLAS TX 75201-3136

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 am on the Monday next following the expiration of 20 days after the date you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

You are hereby commanded to appear by filing a written answer to the Plaintiff's PLAINTIFFS' ORIGINAL PETITION on or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation before the Honorable J. Allan Garrett of Burnet County, at the Courthouse Annex North in said Court in Burnet, Texas. Said petition was filed in said court on 15th day of March, 2021 in the above entitled cause by SCOTT WILBECK 1441 FM 963 BURNET TX 78611.

The nature of Plaintiff's demand is fully shown by a true and correct copy of petition accompanying this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Burnet, Texas on this the 15th day of March, 2021.

Casie Walker

Casie Walker, District Clerk
1701 East Polk Street, Suite 90
Burnet, Texas 78611-2757

By: *Amy Tippie*



JULIE FRANK WILBECK, INDIVIDUALLY
AND JULIE FRANK WILBECK, AS GUARDIAN
OF EDWARD FRANK PARKER, AND
EDWARD FRANK PARKER
V.
O'REILLY AUTO ENTERPRISES, LLC

§ IN THE DISTRICT COURT OF
§ BURNET COUNTY, TEXAS
§ 33RD DISTRICT COURT

CERTIFICATE OF DELIVERY BY CERTIFIED MAIL

Came to hand on the 15TH day of MARCH, 2021 and
executed the 17TH day of MARCH, 2021 by mailing the
same to O'REILLY AUTO ENTERPRISES, LLC, Defendant by registered or certified
mail, with delivery restricted to addressee only, return receipt requested, a true copy of
this citation, together with the accompanying copy of the PLAINTIFFS' ORIGINAL
PETITION.

Fee \$80.00

Casie Walker

Casie Walker, District Clerk
1701 East Polk Street, Suite 90
Burnet, Texas 78611-2757

By: *Amy Fippie*

(Attach return receipts with addressee's signature)

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only *DC/AT 52019*

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee \$ *2.70*

Extra Services & Fees (check box, add fee if applicable)

☒ Return Receipt (hardcopy) \$ *2.70*

☐ Return Receipt (electronic) \$

☐ Certified Mail Restricted Delivery \$

☐ Adult Signature Required \$

☐ Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$ *2.70*

Postmark Here

BURNES 78611

MAR 15 2021

USPS

Sept. 15

O'Reilly Auto Ent. CT Corp System

Street and Apt. No. or PO Box No. *1999 Bryan St, Ste 900*

City, State, ZIP+4® *Dallas TX 75201-3136*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p><i>Lindsey Barrientes</i></p> <p>B. Received by (Printed Name) <i>Lindsey Barrientes</i></p> <p>C. Date of Delivery <i>MAR 17 2021</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below:</p> <p><i>DC/AT 52019</i></p> |
| <p>1. Article Addressed to:</p> <p><i>O'Reilly Auto Enterprises, LLC</i> <i>Registered Agent, CT Corp System</i> <i>1999 Bryan St, Ste 900</i> <i>Dallas, TX 75201-3136</i></p> <p>2. Article Number (Transfer from carrier label)</p> <p><i>7019 2280 0000 5759 5103</i></p> | <p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail®</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail</p> <p><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Signature Confirmation Restricted Delivery</p> |
| <p>Barcode: 9590 9402 5452 9189 4922 57</p> | <p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p> |

EXHIBIT 1-C

CAUSE NO. 52019

JULIE FRANK WILBECK,
INDIVIDUALLY, AND JULIE FRANK
WILBECK AS GUARDIAN OF
EDWARD FRANK PARKER, AND
EDWARD FRANK PARKER,

Plaintiffs,

vs.

O'REILLY AUTO ENTERPRISES, LLC,
Defendant.

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IN THE DISTRICT COURT OF

33rd JUDICIAL DISTRICT

BURNET COUNTY, TEXAS

DEFENDANT'S ORIGINAL ANSWER TO PLAINTIFFS'
ORIGINAL PETITION AND TRCP 193.7 NOTICE

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES O'REILLY AUTO ENTERPRISES, LLC, Defendant in the above styled and numbered cause, and file this its Original Answer to Plaintiffs' Original Petition, and in support thereof respectfully state as follows:

I.
GENERAL DENIAL

1.1 Reserving the right to file other further pleadings, exceptions and/or denials, Defendant O'REILLY AUTO ENTERPRISES, LLC, generally denies each and every material allegation contained in Plaintiffs' Original Petition, and demand that Plaintiffs be required to prove the same by a preponderance of the credible evidence in accordance with the laws and the Rules of Civil Procedure of the State of Texas.

II.
AFFIRMATIVE DEFENSES

2.1 Defendant avers that to the extent the alleged condition in question was open and obvious, Defendant is not legally responsible for the occasion in question.

2.2 Pleading further, and in the alternative, Defendant affirmatively pleads that any recovery of medical expenses by the Plaintiff is limited to that amount both reasonable and necessary and that was

actually paid and incurred by or on behalf of the Plaintiff. Texas Civil Practice & Remedies Code 41.0105.

2.3 Pleading further, and in the alternative, if such be necessary, Defendant invokes the provisions of §33.013 of the Texas Civil Practices & Remedies Code in the unlikely event that liability is established by the Plaintiff in this cause.

III.
TRCP 193.7 NOTICE

3.1 Pursuant to Texas Rules of Civil Procedure 193.7, any and all documents produced by Plaintiffs in response to Defendant's written discovery are intended to be used by Defendant and shall be deemed as properly authenticated for use against Plaintiffs in any pretrial proceeding or trial of this case.

PRAYER

WHEREFORE, Defendant O'REILLY AUTO ENTERPRISES, LLC, request judgment of the Court that Plaintiffs take nothing by this suit, and that Defendant be awarded costs and such other and further relief to which it may be justly entitled.

Respectfully submitted,

**RAMÓN WORTHINGTON
NICOLAS & CANTU, PLLC**
13413 Galleria Circle
Bldg. Q, Ste. 120
Bee Cave, TX 78738
Telephone: 512-643-6005
Facsimile: 512-597-9397

By: /s/ Sarah A. Nicolas
Sarah A. Nicolas
State Bar No. 24013543
snicolas@ramonworthington.com
Stephen W. Bosky
State Bar No. 24087190
sbosky@ramonworthington.com
Marc-Anthony P. Hanna
State Bar No. 24099843

mhanna@ramonworthington.com

Electronic Service to:

efile@ramonworthington.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2021, a true and correct copy of the foregoing document was sent via electronic filing to the following:

Scott C. Wilbeck
1441 FM 963
Burnet, Texas 78611
T: 512-771-0616
E: swilbeck@shellattorneys.com
ATTORNEY FOR PLAINTIFFS

/s/ Sarah A. Nicolas

Sarah A. Nicolas

EXHIBIT 1-D

Case Information

52019 | JULIE FRANK WILBECK, INDIVIDUALLY AND JULIE FRANK WILBECK, AS GUARDIAN OF EDWARD FRANK PARKER, AND EDWARD FRANK PARKER V. O'REILLY AUTO ENTERPRISES, LLC

Case Number

52019

File Date

03/15/2021

Court

33rd District Court

Case Type

Injury or Damage - Other

Judicial Officer

Garrett, J. Allan

Case Status

Filed

Party

Plaintiff

WILBECK, JULIE FRANK

DOB

07/02/1969

Gender

Female

Race

White

Address

1441 FM 963

BURNET TX 78611

Active Attorneys ▼

Lead Attorney

WILBECK, SCOTT

Retained

Plaintiff

PARKER, EDWARD FRANK

DOB

08/14/2002

Gender

Male

Race

White

Height

5' 10"

Active Attorneys ▼

Lead Attorney

WILBECK, SCOTT

Retained

Weight

130 lbs

Address

1441 FM 963

BURNET TX 78611

Defendant

O'REILLY AUTO ENTERPRISES, LLC

Address

REGISTERED AGENT, CT CORPORATION SYSTEM

1999 BRYAN ST, STE 900

DALLAS TX 75201-3136

Active Attorneys ▼

Lead Attorney

NICOLAS, SARAH A

Retained

Events and Hearings

03/15/2021 ORIGINAL PETITION (OCA)

03/15/2021 JURY DEMAND

03/15/2021 Citation ▼

Served

03/17/2021

04/12/2021 ORIGINAL ANSWER